

FILED

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

JUN 29 2018

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

In the Matter of the Seizure of

All funds, credits, and monetary instruments in or
associated with Bank of America account #
446020414308 in the name of Stephen Fowlkes,

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)
)
)
Case No. 4:18MJ231 DDN

APPLICATION AND AFFIDAVIT FOR SEIZURE WARRANT

I, Eric Mills, being duly sworn depose and say:

I am a Special Agent with the Federal Bureau of Investigation, and have reason to believe that there is now certain property namely

All funds, credits, and monetary instruments in or associated with Bank of America account # 446020414308 in the name of Stephen Fowlkes,

which is

subject to forfeiture under Title 18, United States Code, Sections 981(a) and Title 28, United States Code, Section 2461(c), and therefore, is subject to seizure under Title 18, United States Code, Sections 981(b)& 982(b) and Title 21, United States Code, Sections 853(e)&(f) concerning a violation of Title 18, United States Code, Section 1343.

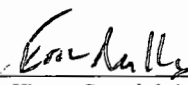
The funds identified herein are subject to civil forfeiture without regard to their traceability to criminal activity because they are contained in an account into which identical traceable property has been deposited and therefore may be forfeited as fungible property under Title 18, United States Code, Section 984.

The facts to support a finding of Probable Cause for issuance of a Seizure Warrant are as follows:

SEE ATTACHED AFFIDAVIT WHICH IS INCORPORATED HEREIN BY REFERENCE

Continued on the attached sheet and made a part hereof.

X Yes ____ No



Signature of Affiant, Special Agent Eric Mills

Sworn to before me, and subscribed in my presence

June 29, 2018

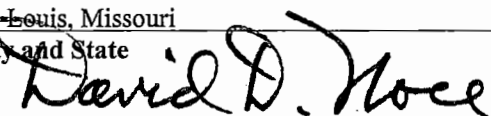
Date and Time Issued

Honorable David D. Noce, U.S. Magistrate Judge

Name and Title of Judicial Officer

at St. Louis, Missouri

City and State



Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEIZURE WARRANT

INTRODUCTION

1. I, Eric Mills, am a Special Agent with the Federal Bureau of Investigation and have been so employed for the past 16 years. I am assigned to the St. Louis, Missouri, field office where I have specialized in white collar crime and fraud investigations of various kinds for the majority of the past 16 years. I am responsible for, among other assignments, conducting investigations of alleged criminal violations of Title 18, United States Code, Sections 1343, wire fraud.

2. I have personally participated in investigations involving the violations of federal law regarding mail fraud, wire fraud and other federal violations such as money laundering that result from such unlawful activity. I have personally participated in the execution of search warrants and seizure warrants, involving the search for various types of evidence and property. As a federal agent, I am authorized to investigate violations of the laws of the United States and to seek forfeiture of property under the authority of the United States.

3. Since approximately April 17, 2018, I have been investigating a wire fraud scheme perpetrated by Stephen Fowlkes (Fowlkes) and his business, Palm Wish Promotional Firm (PWPF), wherein Fowlkes and PWPF advertise Enterprise Holdings (Enterprise) rental cars and Marriott hotel rooms (amongst others) at steeply discounted rates, collect booking fees from prospective customers through PayPal and Square, and then fraudulently use unauthorized discount codes to make reservations with Enterprise and/or Marriott. The proceeds of this fraud scheme are then transferred into Fowlkes' Bank of America account as described in Attachment A. Based on the results of my ongoing investigation, there is probable cause to believe that Fowlkes fraudulently obtained at least \$480,000.00 in payments for car and hotel bookings that he was not authorized to make. As such, the account described in Attachment A is subject to both

civil and criminal forfeiture.

4. This affidavit does not contain all of the information known to me in regard to the investigation; however, it contains enough information to establish probable cause to authorize the seizure of the property described in Attachment A. Although individuals are referred to herein by their initials in an effort to protect their privacy in the event that this affidavit becomes part of the public record, their identities are known to me. I respectfully submit that the information provided by these individuals is reliable and is corroborated by the independently obtained statements of other individuals as well as, in some cases, by financial records.

STATUTORY FRAMEWORK

5. 18 U.S.C. § 1343 (wire fraud) criminalizes devising or intending to devise a scheme to defraud (or performing specific fraudulent acts) through the use of an interstate telephone call or electronic communication.

6. The proceeds of wire fraud are subject to forfeiture under both civil and criminal forfeiture authorities. Pursuant to 18 U.S.C. § 981(a)(1)(C), any property, real or personal, which constitutes or is derived from proceeds traceable to wire fraud is subject to civil forfeiture. In addition, 28 U.S.C. § 2461(c) provides that, “[i]f a person is charged in a criminal case with a violation of an Act of Congress for which the civil or criminal forfeiture of property is authorized,” then the government can obtain forfeiture of property “as part of the sentence in the criminal case.” Thus, pursuant to 28 U.S.C. § 2461(c) and 18 U.S.C. § 981(a)(1)(C), any property, real or personal, which constitutes or is derived from proceeds traceable to wire fraud is subject to criminal forfeiture.

7. This application seeks a seizure warrant under both civil and criminal authority because the property to be seized could be placed beyond process if not seized by warrant.

8. Pursuant to 18 U.S.C. § 981(b), property subject to civil forfeiture may be seized by a civil seizure warrant issued by a judicial officer “in any district in which a forfeiture action against the property may be filed,” and may be executed “in any district in which the property is found,” if there is probable cause to believe the property is subject to forfeiture. As detailed below, acts or omissions in furtherance of the fraud scheme under investigation occurred in the Eastern District of Missouri. The criminal forfeiture statute, 18 U.S.C. § 982(b)(1), incorporates the procedures in 21 U.S.C. § 853 (other than subsection (d)) for a criminal forfeiture action. 21 U.S.C. § 853(f) provides authority for the issuance of a seizure warrant for property subject to criminal forfeiture.

9. Finally, 18 U.S.C. § 984 allows the United States to seize for civil forfeiture identical substitute property found in the same place where the “guilty” property had been kept. For purposes of Section 984, this affidavit need not demonstrate that the funds now in the target accounts are the particular funds involved in the fraud and money laundering violations, so long as the forfeiture is sought for other funds on deposit in that same account. Section 984 applies to civil forfeiture actions commenced within one year from the date of the offense.

10. Based on the foregoing, the issuance of this seizure warrant is authorized under 21 U.S.C. § 853(f) and 18 U.S.C. § 982(b)(1) for criminal forfeiture; and 18 U.S.C. § 981(b) for civil forfeiture. Notwithstanding the provisions of Rule 41(a) of the Federal Rules of Criminal Procedure, the issuance of this seizure warrant in this district is appropriate under 18 U.S.C. § 981(b)(3) and 28 U.S.C. § 1355(b)(1) because acts or omissions giving rise to the forfeiture occurred in the Eastern District of Missouri.

FACTS ESTABLISHING PROBABLE CAUSE

11. Enterprise is a car rental business based in St. Louis, Missouri. Enterprise's online car rental reservation website is hosted by servers located in the St. Louis metropolitan area, within the Eastern District of Missouri.

12. On or about April 17, 2018, your affiant interviewed JA, an investigator with Enterprise security, regarding suspected fraud involving Fowlkes and/or PWPF.

13. Specifically, your affiant learned that in approximately October 2017, Enterprise customer SG rented a vehicle in Watertown, Connecticut, through PWPF and returned the car after being involved in an accident. According to JA, SG abandoned the damaged rental car at the Watertown location where it was rented with the keys in the vehicle and the engine running. SG also left a handwritten note in the running vehicle for Enterprise personnel to find. In the note, SG explained that she booked the vehicle through an agency that was "scamming Enterprise by selling IBM codes." SG later told Enterprise investigators that PWPF booked the rental for her using an IBM employee rate (SG is not an IBM employee) which included insurance coverage. SG paid the booking fee to PWPF via PayPal and someone unknown to SG delivered the vehicle to her residence. SG explained that she did not know the rental was fraudulent until after she had the accident and tried calling PWPF to get information about the insurance coverage included in her rental. SG stated that at that point PWPF terminated all communication with her. Enterprise investigators determined that the SG rental was actually made in the name of another individual, Shamel Scaife, because SG does not have a driver's license.

14. JA advised your affiant that IBM is a major business customer of Enterprise. As a perk for IBM employees, Enterprise created a rate discount code for IBM employees' personal use, which combines a substantial rental discount as well as "Damage Waiver and Minimum Financial Responsibility" insurance coverage.

15. As a result of the above described incident involving SG, Enterprise initiated an internal investigation and discovered that the telephone phone number (443-529-6314) that was used to book SG's reservation had also been used numerous times by Fowlkes to make his own personal reservations for Enterprise cars. JA advised that Fowlkes had previously totaled a rental car and has been banned from making any further reservations with Enterprise.

16. JA stated that the IBM employee code used in SG's rental had also been used to book more than 2,000 Enterprise car rentals since 2014, which resulted in more than 740 actual fraudulent car rentals, and loss to Enterprise in excess of \$420,000.00 in the form of lost rental revenue, unpaid insurance premiums, and damage to rental cars.

17. JA stated that, based on the interview of SG, and based on the subsequent investigation of the additional rentals associated with PWPF, Enterprise believes that PWPF is not associated in any way with IBM and does not have the authority or permission to use the IBM employee personal rate code issued by Enterprise.

18. The above reservations were booked through Enterprise's Rent-A-Car and National Car Rental websites, both of which are affiliates of Enterprise.

19. In my investigation, I discovered that Fowlkes resides in Parkville, Maryland. In addition, I learned that many of the reservations flagged by Enterprise as involving PWPF, the IBM employee discount code and/or the above phone number resolve to IP addresses in and around Baltimore, Maryland.

20. I also learned that in approximately December 2015, Fowlkes purchased the domain, www.palmpromo.com. This domain hosts the website for PWPF, which advertises discounted rental cars, hotel rooms, and other business services.

21. Based on the above, I believe that Fowlkes attracts customers through the PWPF website and uses their information to book reservations through Enterprise's Rent-A-Car and National Car Rental websites using the IBM employee discount code. In addition, based on statements made by SG and my review of the PayPal records described further below, I believe that Fowlkes charges his customers a booking fee for his services between \$30.00 and \$100.00 .

22. Your affiant worked with other investigators to identify and trace the funds obtained by Fowlkes as proceeds of his illegal wire fraud scheme. The investigative team has conducted a review of all financial records associated with the investigation, including bank statements, bank deposit records, checks, cashier's checks, credit card statements, and any other financial records obtained during the course of the investigation, in order to trace funds related to the illegal activity.

23. I reviewed PayPal records for an account in Fowlkes name that receives the above-described fraudulent booking fees (the "PayPal Account"). Between February 16, 2012, and May 30, 2018, there were approximately 9,766 payments totaling approximately \$435,013.68 made into the PayPal Account. Based on information and belief, these payments into the PayPal Account are the booking fees that Fowlkes and PWPF receive from prospective customers to make fraudulent reservations, including with Enterprise, and therefore constitute criminal proceeds.

24. After the criminal proceeds are deposited into the PayPal Account, they are aggregated and periodically transferred into Bank of America account # 44602041**4308** in the name of Fowlkes (the "4308 Account").

25. Records from Bank of America confirm that Fowlkes opened the 4308 Account on or about July 21, 2010.

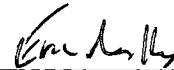
26. Records further show that approximately 90% of the deposits into the 4308 Account are from the PayPal Account with the remaining deposits coming from Square credit card processing and traditional paper checks associated with hotel booking activity. Specific to Enterprise bookings, there were approximately 740 transactions between February 2014 and March 2018 wherein a rental car was fraudulently rented.

27. Based on my investigation, there is probable cause to believe that all of the funds deposited into the 4308 Account, including those from the PayPal Account, Square and checks, are criminally derived.

28. According to Bank of America, as of June 26, 2018, the balance in the 4308 Account is \$17,543.00.

CONCLUSION

29. Based on the information above, I believe that wire fraud proceeds were deposited into the 4308 Account as further described in Attachment A. I respectfully submit there is probable cause to seize the funds in the 4308 Account as proceeds of wire fraud, which are subject to criminal and civil forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).



Eric Mills
Special Agent
Federal Bureau of Investigation

SUBSCRIBED and SWORN to before me this 29th day of June, 2018



The Honorable David D. Noce
United States Magistrate Court Judge
Eastern District of Missouri

ATTACHMENT A

- A. All funds, credits, and monetary instruments in or associated with Bank of America account # 446020414308 in the name of Stephen Fowlkes